

DW 04-144

BEDFORD WASTE SERVICES CORPORATION

Petition for Permanent Rates

Order Approving Stipulation on Temporary Rates

O R D E R N O. 24,429

February 11, 2005

APPEARANCES: Stephen P. St. Cyr & Assoc. by Stephen P. St. Cyr for Bedford Waste Services Corporation; Robert Moore for Bedford Three Corners Owners Association, Inc., and Marcia A.B. Thunberg, Esq. for Staff of the New Hampshire Public Utilities Commission.

I. PROCEDURAL HISTORY

Bedford Waste Services Corporation (Bedford) is a public sewer utility located in Bedford, New Hampshire. On November 1, 2004, Bedford filed with the New Hampshire Public Utilities Commission (Commission) a tariff seeking to permanently increase rates. Bedford sought to collect annual revenues of \$48,726 from its 78 residential customers, through a fixed quarterly charge of \$156.17 per customer. In support of the rate increase, Bedford provided testimony and supporting financial schedules.

Bedford requested in its testimony that, in the event the Commission suspended the permanent rate, the proposed permanent rate be made a temporary rate pursuant to RSA 378:27. On November 19, 2004, the Commission issued Order No. 24,403 which suspended the tariff filed by Bedford, and ordered a prehearing conference and technical session be held on January 4, 2005.

On December 29, 2004, the Commission received a Petition to Intervene from the Bedford Three Corners Owners Association, Inc. (Association). At hearing, there was no opposition to the Association's Motion to Intervene.

Subsequent to the hearing and technical session, the Commission received and approved a procedural schedule which set a hearing on temporary rates for January 28, 2005. On January 21, 2005, Staff, Bedford, and the Association filed a Stipulation on temporary rates for the Commission's consideration and the Commission considered the Stipulation at hearing.

II. SUMMARY OF STIPULATION

The Stipulation reached between Bedford, the Association and Staff, recommends that the Commission approve, as temporary rates, a quarterly rate of \$137.21. The Stipulation did not contain an implementation date for the temporary rate and at hearing Staff and Bedford, with concurrence from the Association, recommended the temporary rate be effective February 1, 2005. Hearing Transcript of January 28, 2005 (TR. 1/28/05) at p. 11. This is the present quarterly rate charged customers (TR. 1/28/05 at pp. 9, 10) and was approved by this Commission by Order No. 21,769 (August 1, 1995).

III. COMMISSION ANALYSIS

RSA 378:27 authorizes the Commission to grant temporary rates if, in its opinion, the public interest so requires. Such rates must be sufficient to yield not less than a reasonable return on the cost of the property of the utility used and useful in the public service, less accrued depreciation, as shown by the reports of the utility filed with the Commission, unless there appears to be reasonable ground for questioning the figures in such reports. Further, the statute contemplates the setting of temporary rates by reasonably practical and expeditious means,

without such investigation as might be deemed necessary to a determination of permanent rates. *See New England Telephone & Telegraph v. State*, 95 N.H. 515, 518 (1949).

We have reviewed the terms of the Stipulation, Bedford's filing, and supporting testimony and exhibits presented at the January 28, 2005 hearing and we will approve the Stipulation. At hearing, Staff and Bedford testified that Bedford had timely filed all reports required by statute. TR. 1/28/05 at p.9. Those reports indicate Bedford is currently under-earning and that this under-earning could disadvantage both Bedford and its customers. For these reasons, we find Bedford is entitled to temporary rates, subject to reconciliation at the conclusion of the permanent rate case.

With respect to the effective date of the temporary rate, Staff and Bedford, with concurrence from the Association, recommended at hearing that the effective date of the temporary rate be February 1, 2005 on a service rendered basis. We believe this is reasonable. Bedford testified that the proposed temporary rate was identical to the existing rate. TR. 1/28/05 at pp. 9, 10. Given that existing and temporary rates are identical, customers will see no change in their present bills. The implementation date will not impact customer rates until the rate case is concluded. This arrangement preserves bill stability and allows Bedford to recoup the permanent rate, albeit delayed, when the temporary rate is reconciled with the permanent rate at the conclusion of this rate case. We believe this is beneficial to both customers and Bedford. Accordingly, we find the February 1, 2005 effective date to be just, reasonable and consistent with applicable case law.

Based on the record before us, we find the quarterly charge of \$137.21 is reasonable, taking into consideration the need to balance the respective concerns of Bedford and its ratepayers. We further find the Stipulation is reasonable and in the public good.

Based upon the foregoing, it is hereby

ORDERED, that the Stipulation proposed by Staff and the Parties is

APPROVED; and it is

FURTHER ORDERED, that the temporary rate of \$137.21 per quarter be implemented effective February 1, 2005; and it is

FURTHER ORDERED, that Bedford shall submit tariff pages in compliance with this Order within 15 days of the date of this order

By order of the Public Utilities Commission of New Hampshire this eleventh day of February, 2005.

Thomas B. Getz
Chairman

Graham J. Morrison
Commissioner

Michael D. Harrington
Commissioner

Attested by:

Michelle A. Caraway
Assistant Executive Director & Secretary